



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION  
CITY VIEW PLAZA, SUITE 7000  
#48 165 RD. KM 1.2  
GUAYNABO, PR 00968-8069

APR 11 2012

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Hon. Ricardo López Cepero  
Major  
**Municipality of Culebra**  
P.O. Box 189  
Culebra, Puerto Rico 00775

**Re: Culebra Municipal Landfill  
Administrative Compliance Order  
Docket Number CWA-02-2012-3113**

Dear Hon. López Cepero:

The United States Environmental Protection Agency (EPA), Region 2, has made findings that the Municipality of Culebra ("MOC") is in violation of the Clean Water Act (the "Act"), 33 U.S.C. §1251 *et seq.* Find enclosed two originals of the ORDER CWA-02-2012-3111, issued to MOC pursuant to Section 309(a) of the Act, 33 U.S.C. §1319(a), which detail these findings. Please acknowledge receipt in one of the originals and return it to EPA at the address included in the letterhead above.

Failure to comply with the enclosed ORDER may subject MOC to civil and/or criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER may also subject MOC to ineligibility for participation in work associated with Federal contracts, grants, or loans.

If you have any questions regarding this matter, please contact Mr. Jaime Lopez, of the Multimedia Permits and Compliance Branch, at (787) 977-5851.

Sincerely,

Jose Font  
Acting Director  
Caribbean Environmental Protection Division

Enclosures

cc: Roberto Ayala, EQB (w enclosure)



bcc: D. McKenna, DECA/WCB (w/ AO)  
B. McGarry, DECA/CAPSB (w/ AO)  
J. Lopez, CEPD (w/ AO)  
CEPD File (w/ AO)



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

**IN THE MATTER OF:**

**Municipality of Culebra**  
P.O. Box 189  
Culebra, Puerto Rico 00775

**Culebra Municipal Landfill**  
**NPDES Number PRU022012**

Proceeding pursuant to Section 309(a) of the  
Clean Water Act, 33 U.S.C. §1319(a)

**ADMINISTRATIVE  
COMPLIANCE ORDER**

**DOCKET NUMBER  
CWA-02-2012-3113**

**STATUTORY AUTHORITY**

The following ORDER is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by the Clean Water Act, 33 U.S.C. §1251 et seq. (the "Act"), which authority has been duly delegated to the Regional Administrator of Region 2, EPA, and since further redelegated to the Director, Caribbean Environmental Protection Division, Region 2, EPA.

**DEFINITIONS AND STATUTORY PROVISIONS**

1. The following definitions and statutory and regulatory provisions apply in this Order:
  - a. Section 301(a) of the Act, 33 U.S.C. §1311(a), provides in part that "Except as in compliance with this Section and Sections ... 402, and 404 of the Act, the discharge of any pollutant by any person shall be unlawful."
  - b. Section 402 of the Act, 33 U.S.C. §1342(a)(1), provides that "... the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant ..."
  - c. Section 402(l)(2) of the Act, 33 U.S.C. §1342(l)(2), provides that the Administrator of EPA shall not require a permit under Section 402 of the Act, ... for discharges of storm water runoff from ready mix concrete operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying



precipitation runoff and which are not contaminated by contact with, any overburden, raw material, intermediate products, finished products, byproduct, or waste products located on the site of such operations.

- d. The term overburden means any material of any nature overlying a mineral deposit that is removed to gain access to that deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by ready mix concrete operations (55 FR 48033).
- e. The term "navigable waters" includes the waters of the United States pursuant to Section 502(7) of the Act, 33 U.S.C. §1362(7).
- f. The term "pollutant" includes, among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water, pursuant to Section 502(6) of the Act, 33 U.S.C. §1362(6).
- g. The term "discharge of a pollutant" means any addition of any pollutant to navigable waters from any point source, pursuant to Section 502(12) of the Act, 33 U.S.C. §1362(12).
- h. The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
- i. The term "person" includes an individual, corporation, partnership, association or municipality, pursuant to Section 502(5) of the Act, 33 U.S.C. §1362(5).
- j. The term "NPDES" means National Pollutant Discharge Elimination System.
- k. "Facility," as any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 CFR § 122.2;
- l. The term "owner" or "operator" means the owner or operator of any "facility" or "activity" subject to regulation under the NPDES program. See 40 CFR § 122.2.
- m. The term "facility" or "activity" means any NPDES "point source" or any other facility or activity ( including land or appurtenances thereto) that is

subject to regulation under the NPDES program. See 40 CFR § 122.2.

- n. The term "storm water associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. See 40 CFR § 122.26(b)(14).
- o. The term "municipal separate storm sewer system" or MS4 means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains).
- p. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. A bypass may be allowed which does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation; otherwise, a bypass is prohibited. If the permittee knows in advance of the need for a bypass, it shall submit prior notice. The permittee shall submit notice of an unanticipated bypass within 24-hours. See 40 CFR §122.41(m).
- q. "Owner" or "operator" as the owner or operator of any facility or activity subject to regulation under the NPDES program. 40 CFR § 122.2; and
- r. Industrial Activity – the 10 categories of industrial activities included in the definition of "stormwater discharges associated with industrial activity" as defined in 40 CFR 122.26(b)(14)(i)-(ix) and (xi).
- s. Operator – any entity with a stormwater discharge associated with industrial activity that meets either of the following two criteria:
  - (i) The entity has operational control over industrial activities, including the ability to modify those activities; or
  - (ii) The entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit).
- t. The term "municipal separate storm sewer system" or MS4 means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains).



- u. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. A bypass may be allowed which does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation; otherwise, a bypass is prohibited. If the permittee knows in advance of the need for a bypass, it shall submit prior notice. The permittee shall submit notice of an unanticipated bypass within 24-hours. See 40 CFR §122.41(m).

### FINDINGS

2. Municipality of Culebra ("MOC") is a person within the meaning of Section 502(5) of the Act, 33 U.S.C. §1362(5).
3. MOC owns and operates a facility engaged in managing and disposal of non-hazardous wastes generated in municipal, commercial and industrial activities throughout the Island of Culebra. MOC's facility is best described by the Primary Standard Industrial Classification (SIC) code 4953.
4. Culebra Municipal Landfill ("Facility") is located at State Road PR-250, Flamenco Ward, Culebra, Puerto Rico 00775.
5. The Administrator of EPA promulgated regulations which require operators of facilities engaged in managing and disposal of non-hazardous wastes to apply for and obtain NPDES permit coverage for the discharges of storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations. These regulations are codified in 40 CFR §122.26(b)(14)(v).
6. The EPA regulations at 40 CFR §122.26(e)(1)(i) require that operators of facilities engaged in managing and disposal of non-hazardous wastes to obtain an NPDES permit under 40 CFR §122.26(a)(1), shall submit an individual NPDES permit application no later than October 1, 1992, if the facility is not part of a group application (as described in 40 CFR §122.26(c)(2)), or is not authorized by an NPDES storm water general permit for industrial activities.
7. On October 30, 2000, EPA reissued the NPDES Storm Water Multi-Sector General Permit ("MSGP") pursuant to Section 402 of the Act, 33 U.S.C. §1342. The MSGP became effective on October 30, 2000 and expired on October 30, 2005. The permit was administratively continued in accordance with the Administrative Procedures Act and remained in force and effect until the earlier of: re-issuance or replacement of this permit.
8. The MSGP establishes among others, Notice of Intent ("NOI") requirements,



Storm Water Pollution Prevention Plans ("SWPPP"), monitoring, reporting and other conditions. Particularly, Part 6.L of the MSGP includes special conditions and requirements applicable to landfill sites.

9. The MSGP requires facilities which seek coverage under this permit to submit a complete NOI in accordance with the requirements of Part 2 in order to obtain authorization to discharge storm water associated with industrial activity.
10. Based upon a March 26, 2012 review of the NOI Processing Center Database, MOC has not filed a Notice of Intent to seek coverage under the 2000 MSGP. Therefore, MOC is in non-compliance with § 308(a) and § 402(p) (2) (B) of the CWA, and the NPDES storm water regulations at 40 CFR § 122.26.
11. On September 29, 2008, EPA reissued the Permit ("MSGP"). The MSGP became effective on September 29, 2008 and expires on September 29, 2013.
12. On January 13, 2012, an EPA enforcement officer, upon showing of credentials, inspected the facility. The findings of the inspection are summarized in the NPDES Water Compliance Inspection Report (the "Report") dated March 30, 2012. Attachment 1 includes a copy of the Report. The following deficiencies were found during the inspection.
  - A. Facility has not implemented the minimum requirements for erosion and sediment control and runoff management according to Part 2.1.2.5 and Part 2.1.2.6 of the Permit.
  - B. BMPs had not been selected, installed, and maintained as required by Part 2.1.1.
  - C. Exposed areas of the facility were not kept in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges specially the trash dumping area, metal collection area.
  - D. Industrial materials and activities were not protected from exposure to rain.
  - E. Inspections were not conducted as required by Part 4 of the Permit.
  - F. Structural BMPs to manage runoff were not observed.
  - G. Culebra Municipal Landfill discharges its storm water into a ditch which eventually discharges in the Caribbean Sea.
13. Based upon a March 26, 2012 review of the NOI Processing Center Database,

MOC has not filed a Notice of Intent to seek coverage under the 2008 MSGP. Therefore, MOC is in non-compliance with § 308(a) and § 402(p) (2) (B) of the CWA, and the NPDES storm water regulations at 40 CFR § 122.26.

14. The Caribbean Sea is a water of the United States pursuant to Section 502(7) of the Act, 33 U.S.C. §1362(7).
15. On March 26, 2012, EPA personnel reviewed the EPA files located at EPA's Caribbean Environmental Protection Division and found that MOC has not submitted a NPDES individual storm water permit application for the industrial site.
16. On the basis of the findings cited in the paragraphs above, EPA hereby finds that MOC is in violation of Sections 301 and 402(p)(4)(A) of the Act, 33 U.S.C. §1311(a) and 33 U.S.C. §1342(p)(4)(A), respectively, for its failure to apply for a NPDES permit and discharges of pollutants into the Caribbean Sea through storm water runoff associated with industrial activities without a NPDES storm water permit.

#### **ORDERED PROVISIONS**

In consideration of the above FINDINGS, and pursuant to the provisions of Section 309(a) of the Act, 33 U.S.C. §1319(a), EPA has determined that compliance with the following requirements is reasonable.

#### **IT IS HEREBY ORDERED:**

- A. **That any document to be submitted by MOC as part of this ORDER** shall be signed by an authorized representative (see 40 CFR §122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- B. **That immediately upon receipt of the originals of this ORDER**, MOC shall complete the acknowledgment of receipt on one of the originals of the ORDER



and return said original to the Chief, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, EPA, to the address specified below.

C. **That within thirty (30) days of receipt of this Order**, MOC shall submit a Plan of Action ("POA") to achieve compliance with its Permit within 120 days of receipt of this Order which includes the following:

- A. a description of planned improvements;
- B. fixed-date schedules for completing construction to achieve compliance with the terms and conditions of the Permit within 120 days of receipt of this Order; and Implementation of the SWPPP;
- C. a site description to comply with Parts 5.1.2 and 8.L.6.1 of the MSGP;
- D. implementation of BMP's in accordance with Parts 2, and 8.L.5 of the MSGP;
- E. use of logs and implementation of good record-keeping practices to comply with Part 6 and 7 of the MSGP;
- F. conduct inspections and report in accordance with Part 4 and 7 of the MSGP;
- G. filing of a NOI form pursuant to Part 1 of the MSGP. Information about the storm water program is located at EPA web site *"http://cfpub.epa.gov/npdes/home."*

MOC is advised that the NOI form cannot be filed until MOC has brought the facility into compliance with this Order and the conditions and requirements of the 2008 MSGP; and

- H. the estimated costs of achieving compliance, including capital costs of any proposed facilities, plus the operations and maintenance ("O&M") costs associated with the future POA improvements of receipt of this ORDER, the permittee shall prepare a detailed plan by which the permittee shall comply with the terms and conditions of the permit in an expedite fashion. Such plan shall include the amount of time and associated costs (including but not limited to monitoring equipment, labor, laboratory analysis cost, training of personnel, etc.) which will be required to implement the plan and correct the violations.

- D. **That within seventy five (75) calendar days of receipt of this ORDER**, MOC shall prepare the SWPPP to comply with the MSGP and submit it for review. The SWPPP must include, but is not limited to:
- a. a site map that contains all of the information required by the SWPPP and Part 5.1.2 of the MSGP, be sure to include all the pollutant sources areas and the controls associated with areas on the site map;
  - b. all non-storm water discharges, must be located and identified in the SWPPP in accordance with Parts 1.1.3 and 5.1.3.4 of the MSGP (note that non-storm water discharges which are not allowable, must be eliminated as required by Part 2.1.2.10 of the permit);
  - c. a non-storm water certification as required by Part 5.1.3.4 of the MSGP;
  - d. a signature or certification of the SWPPP as required by Parts 5.1.7 and Appendix B.11.E of the MSGP;
  - e. documentation of permit eligibility related to endangered species required by Part 5.1.6.1 of the MSGP;
  - f. comprehensive site compliance evaluation report as required by Part 4.3 of the MSGP; and
  - g. monitoring results from required monitoring according to Parts 6 and 7 of the MSGP.
- E. **That within seventy five (75) calendar days of receipt of this ORDER**, with respect to storm water run on/runoff from outside sources and pollutant sources within the facility, MOC shall either:
- a. eliminate all storm water discharges from outside sources, except for those discharges associated with the 10 year 24 hour storm or a storm of greater magnitude and submit written certification that discharges associated with run on/runoff from the areas mentioned above have been eliminated and also include this certification in the SWPPP, or;
  - b. develop and implement storm water BMPs such that the discharges at the storm water outfall meet the conditions of the permit. The storm water BMPs must also be included in the SWPPP;
  - c. MOC shall begin quarterly monitoring of the storm water outfall in accordance with the protocols specified in the MSGP.



- F. **MOC shall submit Quarterly Progress Reports**, beginning four (4) months following the receipt of the Order, on the 28th day of that month and continuing every three (3) months thereafter (on the 28th day) until this Order is no longer effective or until full compliance with this Order has been achieved and EPA notifies MOC that submissions are no longer required. The report must include the status of all of the requirements of this Order and measures MOC has taken to achieve compliance with the Permit and MSGP including, but not limited to, the Compliance Plan, construction projects, schedules and the SWPPP.

EPA is providing MOC an opportunity to confer with EPA concerning this Provision. If MOC wishes to avail itself of this opportunity, it should request a conference call or meeting by letter delivered by registered mail or its equivalent to EPA at the address below. The request must be submitted within five (5) calendar days of receipt of this ORDER to be considered by EPA.

- G. **All information required to be submitted by this ORDER** shall be sent by registered mail or its equivalent to the following addresses:

Mr. Roberto Ayala  
Director  
Water Quality Area  
Environmental Quality Board  
P.O. Box 11488  
San Juan, Puerto Rico 00910

And

Mr. Jaime López  
Multimedia Permits and Compliance Branch  
Caribbean Environmental Protection Division  
U.S. Environmental Protection Agency, Region 2  
City View Plaza II – Suite 7000  
#48 State Road 165, Km. 1.2  
Guaynabo, Puerto Rico 00968

Any questions concerning this ORDER should be directed to Mr. Jaime López of the Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division at (787) 977-5851, via facsimile at (787) 289-7982 or through electronic mail at "lopez.jaime@epa.gov."

This ORDER does not constitute a waiver from compliance with or a modification of the effective terms and conditions of the Act, its implementing regulations, and the MSGP, which remain in full force and effect. This ORDER is an enforcement

action taken by EPA to ensure swift compliance with the Act. Issuance of an Administrative Order shall not be deemed an election by EPA to forego any civil or criminal actions which would seek penalties, fines, or other appropriate relief under the Act.

This ORDER shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: 3-30-2012

Signed: \_\_\_\_\_

  
for **Jose C. Font**

Acting Director

Caribbean Environmental Protection

Division



United States Environmental Protection Agency  
Washington, D.C. 20460  
**Water Compliance Inspection Report**

Form Approved.  
OMB No. 2040-0057  
Approval expires 8-31-98

**Section A: National Data System Coding (i.e., PCS)**

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 <b>N</b> 2 <b>5</b> 3 <b>PRU</b> 11 12 <b>12/01/13</b> 17 18 <b>C</b> 19 <b>R</b> 20 <b>2</b>					
Remarks					
2					
66					
Inspection Work Days	Facility Self-Monitoring Evaluation Rating	B1	QA	Reserved	
6 <b>1</b> <b>0</b> <b>69</b> 70 <b>2</b> 71 7 73 74 7 80					

**Section B: Facility Data**

Name and Location of Facility Inspected (for industrial users discharging to POTW, also include POTW name and NPDES permit number)	Entry Time/Date	Permit Effective Date
<b>Culebra Municipal Landfill</b> State Road PR #250 Flamenco Ward Culebra Puerto Rico 00775	<b>9/17/10</b> <b>11:30 pm</b>	<b>09/29/08</b>
	Exit Time/Date	Permit Expiration Date
	<b>9/17/10</b> <b>4:30 pm</b>	<b>09/29/13</b>
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data	
<b>Mrs. Yolanda Rivera Romero- Operations Manager</b> <b>(787) 391-2902</b>		
Name, Address of Responsible Official/Title/Phone and Fax Number(s)		
<b>Mr Ricardo Lopez Cepero, Major</b>		
Contacted <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No X		

**Section C: Areas Evaluated During Inspection (Check only those areas evaluated)**

<input checked="" type="checkbox"/> Permit	<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> CSO/SSO (Sewer Overflow)
<input checked="" type="checkbox"/> Records/Reports	<input type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Sludge Handling/Disposal	<input checked="" type="checkbox"/> Pollution Prevention
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Compliance Schedules	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> Multimedia
<input checked="" type="checkbox"/> Effluent/Receiving Water	<input type="checkbox"/> Laboratory	<input checked="" type="checkbox"/> Storm Water	<input type="checkbox"/> Other:

**Section D: Summary of Findings/Comments (Attach additional sheets of narrative and checklists as necessary)**

**SEE SUPPLEMENT TO WATER COMPLIANCE INSPECTION REPORT FOR**

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
 Jaime Lopez, Environmental Scientist	EPA/CEPD/MPCB (787) 977-5851	March 27, 2012
Signature of Management & A Reviewer	Agency/Office/Phone and Fax Numbers	Date
 Tere Rodriguez, Chief	EPA/CEPD/MPCB (787) 977-5864	3-30-2012





**SUPPLEMENT TO WATER COMPLIANCE INSPECTION REPORT FORM  
(EPA FORM 3560-3 (REV 9-94))**

**Culebra Municipal Landfill**  
State Road PR #250, Flamenco Ward, Culebra  
Puerto Rico 00775

Owner/Operator – Municipality of Culebra  
Permit Coverage – NPDES Number PRU

This Supplement to the Water Compliance Inspection Report Form ("Supplement") is prepared to include all findings and comments concerning the Compliance Evaluation Inspection ("CEI") conducted by environmental scientist and enforcement officer, Jaime López of the United States Environmental Protection Agency, Region 2, during the site inspection at the referenced facility ("Facility") on Friday, January 13, 2012.

The purpose of the CEI was to determine Municipality of Culebra's ("MOC") compliance with the National Pollutant Discharge Elimination System ("NPDES") Storm Water Multi-Sector General Permit ("Permit") for Industrial Activities, the NPDES storm water regulations ("SW Regulations") codified at 40 CFR § 122.26, and Sections 301, 308 and 402(p) of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1311, 1318, and 1342(p), respectively.

**1. GENERAL INFORMATION**

- a. Date of Site Inspection - Friday, January 13, 2012.
- b. Time of Inspection - Inspection began approximately at 1:30 p.m. and ended approximately at 2:30 p.m.
- c. Weather - Dry weather where sunny skies prevailed most of the time of the inspection
- d. Culebra Representative – Yolanda Rivera Romero -Operations Manager
- f. EPA Representative – Jaime López

**2. PRIOR HISTORY OF ENFORCEMENT ACTIVITIES**

- a. This is the first inspection performed by EPA at the site to evaluate compliance with the Permit, SW Regulations and CWA.

3. **WITH RESPECT TO MUNICIPALITY OF CULEBRA**

- a. Municipality of Culebra (MOC) is a person pursuant to Section 502(5) of the CWA, 33 U.S.C. §1362(5).
- b. MOC's contact person for the facility is Yolanda Rivera Romero. She can be reached at (787) 742-3116/391-2902. MOC's address is P.O. Box 189, Culebra, Puerto Rico 00775.

4. **DESCRIPTION OF THE FACILITY**

- a. MOC owns and operates a facility engaged in managing and disposal of non-hazardous wastes generated in municipal, commercial and industrial activities throughout the Island of Culebra. MOC's facility is best described by the Primary Standard Industrial Classification (SIC) code 4953.
- b. MOC operates a facility of approximately 12 acres, known as the Culebra Municipal Landfill (CML), dedicated to sanitary landfill activities.
- c. The receiving waters of the discharges from the facility consist of the Caribbean Sea.

5. **APPLICABLE REGULATIONS AND PERMIT COVERAGE**

*Regulations*

- a. Section 402(p)(2)(B) of the CWA authorizes the Administrator of EPA to issue NPDES permits to storm water discharges associated with industrial activity.
- b. The Administrator of EPA has promulgated regulations, 40 CFR §122.26(a) (1) (ii) and §122.26(b) (14), which require that a NPDES permit shall be obtained for storm water discharges associated with industrial activity. The facility is covered by the National Pollutant Discharge Elimination System (NPDES) application regulation for storm water discharges at 40 CFR §122.26(b) (14) (v). In addition, 40 CFR §122.26(b) (14) (v) includes facilities engaged in the managing and disposal of non-hazardous wastes. AWPI facility is best described by the Standard Industrial Classification (SIC) codes 4953.



- c. The EPA regulations at 40 CFR §122.26(e) (1) (i) require that operators of industrial sites to obtain an NPDES permit under 40 CFR §122.26(a) (1), shall submit an individual NPDES permit application no later than October 1, 1992, if the facility is not part of a group application (as described in 40 CFR §122.26(c) (2)), or is not authorized by an NPDES storm water general permit for industrial activities.

#### *Permit Coverage*

- d. On October 30, 2000, EPA reissued the NPDES Storm Water Multi-Sector General Permit ("MSGP") pursuant to Section 402 of the Act, 33 U.S.C. §1342. The MSGP became effective on October 30, 2000 and expired on October 30, 2005. The permit has been administratively continued in accordance with the Administrative Procedures Act and remains in force and effect until the earlier of: re-issuance or replacement of this permit.
- e. The MSGP establishes among others, Notice of Intent ("NOI") requirements, Storm Water Pollution Prevention Plans ("SWPPP"), monitoring, reporting and other conditions. Particularly, Part 6.L of the MSGP includes special conditions and requirements applicable to landfill sites.
- f. The MSGP requires facilities who seek coverage under this permit to submit a complete NOI in accordance with the requirements of Part 2 in order to obtain authorization to discharge storm water associated with industrial activity.
- g. Based upon a March 26, 2012, review of the NOI Processing Center Database, MOC did not file a Notice of Intent to seek coverage under the 2000 MSGP. Therefore, MOC is in non-compliance with § 402(p)(4)(A) of the CWA , and the NPDES storm water regulations at 40 CFR § 122.26.
- h. On September 29, 2008, EPA reissued the Permit ("MSGP"). The MSGP became effective on September 29, 2008 and expires on September 29, 2013.
- i. Based upon a March 26, 2012, review of the NOI Processing Center Database, MOC did not file a Notice of Intent to seek coverage under the 2008 MSGP. Therefore, MOC is in non-compliance with § 402(p)(4)(A) of the CWA , and the NPDES storm water regulations at 40 CFR § 122.26.

6. **COMPLIANCE EVALUATION OF PERMIT' S REQUIREMENTS**

Part 5 of the Permit requires the development of a SWPPP for the facility. MOC has not prepared the SWPPP for the facility.

7. **FACILITY'S WALKTHROUGH**

- a. The CEI commenced with an entry meeting where representatives from EPA and MOC met to generally discuss matters related to permitting, facility conditions, Best Management Practices (BMP) implementation, inspection protocols and records.
- b. The site review revealed the following deficiencies.
  - 1) Facility has not implemented the minimum requirements for erosion and sediment control and runoff management according to Part 2.1.2.5 and Part 2.1.2.6 of the Permit.
  - 2) BMPs have not been selected, installed, and maintained as required by Part 2.1.1.
  - 3) Exposed areas of the facility were not kept in a clean, orderly manner where such exposed areas could contribute pollutants to storm water discharges specially the trash dumping area, metal collection area.
  - 4) Industrial materials and activities were not protected from exposure to rain.
  - 5) Inspections were not conducted as required by Part 4 of the Permit.
  - 6) Structural BMPs to manage runoff were not observed.
- c. The CEI ended with an exit meeting in which EPA informed the representatives of MOC that the facility needs to apply for an NPDES permit to cover its discharges of storm water associated with industrial activities and that the best management practices were not being implemented for the discharges throughout the facility. They were also informed that additional BMPs are needed for spill control, housekeeping, sediment control and runoff management.

MOC did not provide a copy of the SWPPP and the site map.
- d. Attachment 1 includes the photo-documentation of the CEI. A total of 9 pictures were taken.



## 8. RECOMMENDATION

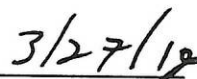
I recommend that EPA issues an administrative compliance order under Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to bring the discharges from the Facility into compliance with the MSGP and to require the operator at the facility to implement Best Management Practices for the control of pollutants at the facility and at the receiving waters.

End of report

Prepared by:

  
Jaime Lopez

Environmental Scientist



Date

## ATTACHMENTS

1. Photo-Documentation



Picture # 1  
Scrap Metal Collection and  
Storage Area  
without any BMPs



Picture # 2  
Access Road to top of Landfill  
no erosion and  
sedimentation controls  
observed



Picture # 3  
Trash (industrial  
waste) exposed to rain  
without daily required soil  
cover





Picture # 4  
Trash pile ( domestic  
waste) exposed to rain



Picture # 5  
Trash ( "industrial  
material") exposed to rain  
without daily required soil  
cover



Picture # 6  
Trash ( "domestic  
waste") exposed to rain  
without daily required soil  
cover





Picture # 7  
Consumer Waste Products  
and Scrap metals storage  
areas withouth BMPs



Picture # 8  
Uncovered trash going down  
the slope towards the Playa  
Tamarindo without controls



Picture # 9  
Access Road without BMPS  
or strom water conveyance







UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

IN THE MATTER OF:

**Municipality of Culebra**  
P.O. Box 189  
Culebra, Puerto Rico 00775

**Culebra Municipal Landfill**  
**NPDES Number PRU022012**

Proceeding pursuant to §309(a) of the Clean  
Water Act, 33 U.S.C. §1319(a)

**ADMINISTRATIVE**  
**COMPLIANCE ORDER**

**DOCKET NUMBER**  
**CWA-02-2012-3113**

**ACKNOWLEDGMENT OF RECEIPT OF**  
**ADMINISTRATIVE**  
**COMPLIANCE ORDER**

I, \_\_\_\_\_, do hereby acknowledge the receipt of a  
true copy of the ADMINISTRATIVE COMPLIANCE ORDER, CWA-02-2012-3113.

Pursuant to the signatories requirements in 40 CFR§122.22, I certify that I am  
authorized to sign this acknowledgement.

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature



